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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,532	07/26/2006	Konrad Dankowski	3774	8902

7590  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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COKER, ROBERT A

ART UNIT	PAPER NUMBER
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3616

MAIL DATE	DELIVERY MODE
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07/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,532	<b>Applicant(s)</b> DANKOWSKI ET AL.	
	<b>Examiner</b> ROBERT A. COKER	<b>Art Unit</b> 3616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-13 is/are rejected.
- 7) ☒ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/26/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 objected to because of the following informalities: In claim 1, line 3, "a drive pinion" should be deleted because the phrase is repetitive. In claim 9, "A fastening device (), should be --A fastening device (11)--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 5 and 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, line 4 "the worm gear" lacks antecedent basis.

Claim 8, line 3 "the worm gear" lacks antecedent basis.

Claim 9 is unclear. It is unclear what a belt hand-over is. Further applicant should note that the claim as understood appears to be improper as failing to further limit the base claim.

Claim 10, "rotary fashion" is unclear.

Claim 12, line 3, "the angular position" lacks antecedent basis.

Claim 13 is unclear. It is unclear as to whether the applicant is claiming the structure in claim 1.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 6, 7 and 9-13 rejected under 35 U.S.C. 102(b) as being anticipated by Howland (U. S. 3,386,683).

With respect to claims 1, 9-12, Howland disclose an adjusting device for motorized movement of a safety belt (12) in a motor vehicle, having a transmission that

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is contained in a transmission housing (34) and is equipped with a drive pinion (74); the drive pinion meshes with a toothed rack (72), which is able to slide in the longitudinal direction through a guide element (See Figure 2) of the adjusting device, wherein the transmission housing (34) has a through bore through which a bolt affixed to the vehicle body is able to pass in order to fasten the adjusting device in place (See Figure 2, Column 3, lines 29-30).

With respect to claim 6, Howland discloses the adjusting device, wherein the transmission housing has a base body and a transmission cover that are attachable to each other and are manufactured out of plastic-in particular by means of the injection molding process (See Figure 2). The method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentability weight.

With respect to claim 7, Howland discloses the adjusting device, wherein the guide element is an integral component of the transmission housing.

With respect to claim 13, Howland teaches the method with use of the structure described above.

7. Claims 1, 7, 9-13 rejected under 35 U.S.C. 102(b) as being anticipated by Kodaira et al. (U. S. 6,173,802).

With respect to claim 1, 9-12 Kodaira et al. discloses an apparatus having a transmission that is contained in a transmission housing (2) and is equipped with a drive pinion a drive pinion; the drive pinion meshes with a toothed rack, which is able to slide

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in the longitudinal direction through a guide element of the adjusting device, wherein the transmission housing has a through bore through which a bolt affixed to the vehicle body is able to pass in order to fasten the adjusting device in place (See Figure 1, Column 1, lines 49-51 and lines 57-58).

With respect to claim 7, Kodaira et al. discloses the adjusting device, wherein the guide element is an integral component of the transmission housing.

With respect to claim 13, Kodaira et al. teach the method with use of the structure described above.

### ***Allowable Subject Matter***

8. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT A. COKER whose telephone number is

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(571)272-8514. The examiner can normally be reached on Monday thru Friday, 8.30 a.m.-5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert A Coker  
Examiner  
Art Unit 3616

RAC

/Kevin Hurley/  
Acting SPE of Art Unit 3616